

**Town of Wayne
Open Space Committee**

MEMBERS:

Trent Emery, Ford Stevenson, Steve McLaughlin, Lloyd Irland, Ken Spalding, Margaret Lane, Chris Cushman, Bruce Mercier

Meeting Agenda

Date: July 31, 2017

Time: 7:00 PM

Place: Wayne Elementary School - Library

Call Meeting to Order.

Secretary's Report.

- Bring all members up to speed on committee process and KLT discussions. Please check the attachments to the draft minutes Ken e-mailed to all.

OLD BUSINESS

- Review committee organization and directive. Determine compliance.
- Report by Town Manager concerning questions on the KLT letter of intent.
- Review of Open Space tax law classifications, Maine Revenue Service, Property Tax Division, Property Tax Bulletin No. 21 or Reference, 36 M.R.S.A §1101-1121.

NEW BUSINESS

- Exploration of other options and cost estimates.
- Set next meeting date.

Other Business

Adjourn.

Wayne Town Manager

From: Sue or Ken Spalding <Spaldings4@msn.com>
Sent: Thursday, July 20, 2017 12:48 AM
To: Ford Stevenson; Lloyd Irland; Trent Emery; Bruce Mercier; Margaret Lane; Stephen McLaughlin; Chris Cushman; Aaron Chrostowsky
Subject: DRAFT Minutes of June 21, 2017 Open Space Committee
Attachments: Open Space Com DRAFT Minutes_6-21-17.docx; House Rd parcel proposal 4-5-17.docx; OpenSpace SubCom Rprt 4-5-17.docx; Open Space_KLT counter proposal_5-23-17.docx; Open Space notes_5-30-17_meeting_KLT.docx

Hi all,

The draft minutes for the June 21, 2017 meeting of the Open Space Committee are attached. I apologize for the delay in getting these out.

Also attached are documents that are incorporated into the minutes by reference. The incorporated documents are:

- The Town's proposal to KLT presented at a meeting with KLT on April 5, 2017
- The sub-committee report of the April 5, 2017 meeting
- The KLT response document accepting the Town proposal along with qualifications
- Notes from a May 30, 2017 meeting with KLT representatives to get clarification of the KLT response document
- KLT's Letter of Intent, dated June 20, 2017. [The KLT LOI is not attached, as I don't have a digital copy. Aaron should have a digital copy and maybe he can send that to us.]

These minutes will need to be reviewed and approved at our July 31, 2017 meeting.

Ken

**Town of Wayne
Conservation Property
House Road, Wayne, Maine
Proposal to Kennebec Land Trust
April 5, 2017**

The Property

The Town of Wayne owns a 118-acre parcel of land at the end of House Road, in the Town of Wayne. The parcel was acquired for nonpayment of taxes over a lengthy period of time.

The parcel is forested with significant amounts of very steep terrain as well as moderate slopes and flat areas. There is a small wetland and a stream. There are areas of open hardwood, mixed growth and softwood stands. Portions of the property have been logged, most recently selectively removing large pine trees, but it also contains significant amounts of mature forest with very large oak, pine and hemlock trees. It contains 1,500 feet of shore frontage on the west shore of Wilson Pond, including wading bird habitat along the northern shore.

The property has significant deer habitat, shows evidence of beaver activity along the shore and connects other large undeveloped parcels for wildlife habitat.

The property is bounded by three other large undeveloped properties, two moderately sized parcels with conservation values and six small parcels in the southeast corner along the shore of Wilson Pond. These smaller parcels are accessed by a private road right of way across the Town property.

There is historic evidence of settler farming including stone foundations and an old roadway with rock terracing along a stream.

There is significant potential for low intensity recreation, water quality protection, and wildlife habitat protection. There is limited potential for commercial logging.

Background

The Town acquired the property after the prior landowner failure to pay taxes for 5 years. After the tax lien acquisition was completed the Wayne Conservation Commission began to consider the conservation potential for the property and urged that the property not be disposed of as most tax acquired properties are. The Commission presented the possibility of a Town Forest in several forums.

After a Conservation Commission presentation to the Select Board the former owner asked to re-acquire the property and agreed to acquire it with a conservation easement in accordance with his stated management goals for the property. After a year of negotiations through attorneys, the Select Board decided to ask the Town to approve going through the legal process

of quieting title. There were a small number of people who believed that the only proper action for the Town was to return the property to the former owner. Nevertheless, 2015 Town Meeting approved, with a sizable majority, to proceed to quiet the title. Even after that vote, the Select Board made another year-long attempt to deal directly with the former landowner and reach agreement on a conservation easement. After another year, this effort was abandoned and title was quieted on August 8, 2016.

Town Process and Select Board Decisions

In the Fall of 2016 the Select Board established an ad hoc citizens committee to consider disposition of the House Road property and make a recommendation to the Board. After several meetings and considerable exploration of the property and its assets the committee took a recommendation to the Select Board.

On January 10, 2017, the ad hoc committee reported to the Select Board and the Board unanimously adopted the following:

- The property should be managed for conservation purposes
- The Town needs to recoup its investment in the property
- The Town does not want to retain ownership of the property
- The Town should offer the property to Kennebec Land Trust first, as the most appropriate conservation landowner

The Board would like to include an article on the Town Warrant of the June Town Meeting to get voter approval for the conservation disposition of the property. There will be at least one public forum on the proposal prior to the Town Meeting.

Proposal to Kennebec Land Trust

- Grant fee title to KLT for the price of \$70,000 which is the amount the Town has invested in the property for legal costs and lost property taxes prior to Town acquisition.
- Some conditions would be attached to the property to ensure public benefit, including:
 - manage the property for conservation,
 - provide for public access, including low intensity, low impact recreation
 - allow hunting and trapping pursuant to Maine statute and regulation
 - make payments in lieu of taxes at the Town's Open Space rate
 - any timber management be done pursuant to best practices

Other Notes

- The Town wants the property conserved
 - This appeared to be the primary motivation when Town Meeting voted to quiet title
 - The ad hoc committee was unanimous about this
 - The Select Board unanimously agreed
 - The Comprehensive Plan adopted at Town Meeting calls for 15% of remaining developable land to be conserved
- The Town doesn't have the capacity to exercise ownership responsibilities for the property,
 - The Town has no experience in ownership of comparable land
 - There is no infrastructure in place to manage land nor to coordinate volunteers to do so.
 - The Town lacks passionate support for Town ownership
 - The Kennebec Land Trust has all the experience, expertise and infrastructure to manage such a property.
- There is strong sentiment among some in Town, including within the ad hoc committee and the Select Board that the Town should not own property of this nature.
- About Controversy...
 - There was a contingent in Town who wanted to see the property go back to the prior owner. The Town resoundingly defeated that position with a vote at Town Meeting to quiet the title. The handful of primary advocates who felt the Town needed to get the land back to the prior owner won't likely be happy with anything but that outcome or the fair market sale of the property, however, the conservation pathway that will likely have the least resistance is to recoup the Town's costs, have the Town divest its ownership, and end up with some amount of taxes being paid.
- Adjacent landowner issues...
 - There is good potential for working with owners of large adjacent parcels to advance conservation. This potential is likely much greater with KLT ownership than Town ownership
 - There is one adjacent landowner that has not adequately followed land use regulations. Future incidents could affect the owner of property, but will also need to be dealt with by the Town. The conservation of the property is to be in perpetuity. Abutting landowners come and go.
 - The potential for being assessed for road maintenance costs for the private road across the property has been brought up. After some back and forth with the Town and Maine Municipal attorneys, the final written opinion is that the issue is the same for public or private ownership of the property and that the owner of this parcel should not be liable for costs. The statute states that adjacent landowners who benefit from a private road may, under specific circumstances, be liable for road costs. In this case the road right of way is an encumbrance on the property and not a benefit.

Meeting of the Kennebec Land Trust's (KLT) Lands Committee
April 5, 2017

Report from Wayne's ad hoc Open Space Committee's
Sub-Committee to present a proposal to KLT for the
Conservation of the Town's House Road property

Wayne's Sub-Committee: Trent Emery, Ford Stevenson, Ken Spalding and Aaron Chrostkowsky (staff).

KLT Lands Committee in attendance: Martha Nielson, Co-Chair, Jim Connors, Co-Chair, Cheryl Harrington, Brian Kent, Howard Lake, Bob Mohler, Andy Tolman, Theresa Kerchner (staff). At least two members were not present.

The KLT Lands Committee began their meeting at 5:00 PM and asked us to join them at 5:30.

Aaron had emailed a copy of the 3-page proposal to Theresa in advance and they had all read it. We also brought several packets that Aaron had put together of information about the property and behind the development of the proposal. The contents of the packet are listed below.

The Wayne Sub-Committee members started the meeting by describing the property with the aid of a map. Ford followed up with some description of how the Open Space Committee reached consensus about disposition of the property.

Co-Chair Martha Nielson made it clear that KLT did not have the funds to acquire the property. We assured her that we understood and that it would take time to raise the funds, primarily from Wayne people and that there could be an instrument such as a purchase of sale agreement until funds were raised.

The Lands Committee had obviously discussed the proposal and presented a united front in support of the idea of the Town retaining ownership of the property while KLT. Howard Lake presented the scenario of KLT purchasing an easement and a mechanism whereby the Town would receive payments equivalent to current use taxes. He pointed out that if the stewardship needs were \$2,000 per year, an additional \$50,000 would need to be raised for an endowment earning 4% yield to meet the need.

At one point early in the discussion, Co-Chair Martha Nielson spoke as though KLT would only be interested in an easement, but when asked if that was a decision that had already been made she said no and although it was clear that they were still most interested in an easement, it was not treated as a settled matter in the rest of the discussion.

In discussing issues about the road on the property, attorney Howard Lake agreed with the interpretation of the written legal opinion that we received, that the owner of the property would not be liable for road maintenance costs assessed by a road association because the road

right of way is an encumbrance on the property not a benefit. He also allowed that there could be an interpretation that the legal definition of benefit could be that a road on a property is de facto, a benefit. There was, however, no further pursuit of a concern that there would be concern about future road maintenance costs.

Within the context of a potential difficult neighbor on the southeast corner of the property, Co-Chair Jim Connors did bring up a concern that there could be problems for the landowner if the road maintenance was done in a way so as to cause damage. We pointed out that any violations of law, ordinance, code or zoning would have to be dealt with by the Town, regardless of Town or KLT ownership. This appeared to blunt concern of the Lands Committee about potential bad behavior of a neighbor, but Jim did still seem bothered by the potential responsibility for damage caused road maintenance that wasn't necessarily illegal [Note: it could be pointed out to Jim that if the Town owned the property and damage was done, there is no guarantee that the Town would pursue corrective action.]

Theresa raised the scenario of the Town maintaining ownership with KLT holding an easement for some period, maybe 5 years, until the townspeople are convinced that the property is a benefit to the town, then reconsider transferring fee ownership to KLT. It seems her concern is to remove all controversy before KLT becomes fee owner. We expressed our view that the purpose of KLT taking fee ownership is to reduce controversy and that proposing to maintain Town ownership would create more controversy that we would then have to mitigate during the trial period. We also expressed concern that a trial period to determine community acceptance could invite opponents of the concept to sabotage its success and that we wanted to bring the disposition of the property to closure and not have the final outcome in question for another 5 years or more.

Although Theresa may not have been convinced that this wasn't a good option, committee members may have been sympathetic to our view.

Near the end of our time at the meeting Cheryl Harrington assured us that KLT is interested in the conservation of the property and have been involved since the former owner expressed an interest in a conservation easement as a way for him to regain fee ownership.

Overall, it was a good meeting, with a healthy and frank discussion of issues and concerns as well as acknowledgement of the conservation value of the property.

The KLT Lands Committee now needs to more fully consider the proposal. They had other work to do during the remainder of this meeting after we left. They expect to have a discussion of our proposal, and hopefully arrive at a recommendation for their full board at the next committee meeting in May. The next meeting of their board is in June and after the Wayne Town Meeting, but they don't expect that the board will be able to reach a decision at the June meeting, and it is more likely to be decided upon at their September meeting.

The only planned contact with the KLT Committee is that Howard Lake expressed interest in visiting the property and Ken will set up a date with him as soon as the snow is gone.

The Open Space Committee needs to decide whether to take additional action prior to the KLT Lands Committee decision or between the committee decision, and the KLT Board's decision, or to just wait and react to their Board decision.

[List of items that were in the packet of information]

Submitted by,

Trent Emery, Ford Stevenson, Ken Spalding, Aaron Chrostkowsky
Open Space Sub-Committee to submit conservation proposal to KLT

May 23, 2017. KLT Response to the Town of Wayne's proposal for the House Road property

Aaron, here is an outline of the Town's proposal to KLT and our response. We are looking forward to the meeting on the 31st. Norm

Pettingill Meeting Discussion Items

Town Proposal

- Town grants fee ownership of Pettingill property to KLT.
- KLT pays Town \$70,000 for back taxes and legal fees.
- Property is managed for conservation.
- Public access, including low intensity, low impact recreation.
- Hunting and trapping is allowed pursuant to State laws and regulations.
- KLT makes payment in lieu of taxes at the Open Space rate.
- Timber management is done pursuant to best practices.

KLT accepts the above proposal subject to the following additions and changes:

- Town citizens fundraise the \$70,000.
- Town citizens and KLT raise an additional \$17,638 for stewardship.
- Town completes boundary survey of property at its expense.
- Town citizens to coordinate with Theresa on fundraising.
- Closing to take place once fundraising is complete.
- We are willing to sign a letter of intent.
- Hunting is allowed pursuant to State laws and regulations.
- No Trapping.
- No ATV's.
- KLT pays taxes at the Forever Wild Open Space Rate.

Summary of the Results of a May 30, 2017 Meeting
Between Wayne's ad hoc Open Space Committee's
Sub-Committee to present a proposal to KLT for the
Conservation of the Town's House Road property

KLT essentially accepted the proposal for KLT ownership of the House Rd property, but they did have some caveats.

Their summary of the Town's proposal and their response needs to be referenced when reading the notes below.

Ford, Trent, Ken and Aaron met with some KLT folks on May 30, 2017 to clarify what they were proposing.

Here is some clarification of their proposal based on our meeting with them...

About the first 4 bullets related to fundraising:

- KLT will form a fundraising committee that will be made-up primarily of Wayne residents. The committee will raise approximately \$100,000 that will include \$70,000 to acquire the property from the Town, \$17,638 for a stewardship fund and ~\$12,000 for a survey resulting in pins set in each boundary corner, the private road delineated, and a map of the property.
- KLT won't acquire the property until the survey is completed.
- The end of 2018 is an estimate of when the fundraising could be completed by.

The bullets about no trapping and no ATVs would not be conditions of the acquisition. This is the current policy for all KLT properties and included here just so that we know. Although not allowing trapping is a general KLT policy for its properties, there are exceptions where trapping is allowed.

The Forever Wild Open Space tax rate is the lowest rate. Only about 5% of the full rate? Logging wouldn't be permitted under that tax category.

Submitted by Ken

DRAFT Minutes
Town of Wayne
Open Space Committee Meeting
June 21, 2017

Attendance.

Committee Members. Present: Trent Emery, Steve McLaughlin, Ford Stevenson, Lloyd Irland, Chris Cushman, Ken Spalding.

Absent: Margaret Lane, Bruce Mercier

Staff. Aaron Chrostowksy

Others. Cindy Pettengill

Meeting started shortly after 7:00 PM

Trent Emery suggested we first elect officers and suggested Ken to serve as Secretary and Ford to serve as Chair. Someone suggested Lloyd as Vice Chair. Lloyd moved election of the suggested slate. Steve seconded the motion. The vote was: Yes - 6, and No - 0.

Ford gave background on the progress of the Committee, how we got to where we are in the process, about prior meetings and how the Committee reached consensus on a number of issues.

There was discussion of what the nature of public involvement should be in the Committee process. The Select Board directive states that the Committee Organization includes that the "Committee shall hold meetings that are open to the public and issue notices of meetings, including items of discussion." The Committee Directive also states that the Committee will "...seek public input to review, research, develop conceptual plans, and estimated cost estimate for various options..." There was discussion of holding a public meeting specifically for input and feedback. No conclusion was reached.

A sub-committee of Trent, Ford and Ken, and Aaron as staff, presented the Town's proposal to the Kennebec Land Trust (KLT) and had a follow-up meeting with KLT. The following written documents provide a record of the sub-committee's progress and are attached and incorporated by reference into this meeting's minutes:

- The Town's proposal to KLT presented at a meeting with KLT on April 5, 2017
- The sub-committee report of the April 5, 2017 meeting
- The KLT response document accepting the Town proposal along with qualifications
- Notes from a May 30, 2017 meeting with KLT representatives to get clarification of the KLT response document
- KLT's Letter of Intent, dated June 20, 2017.

Cindy Pettengill had extensive questions that Ford and other Committee members tried to address.

KLT Letter of Intent

Aaron had received a Letter of Intent (LOI) from KLT and distributed it to the Committee. The Committee reviewed and discussed the LOI. There were no motions or other resolutions to questions or issues brought up, but the following were discussed.

- Part One. Section 3. C. of the LOI states that a fundraising plan be developed by members of the Wayne Open Space Committee and KLT Staff. There was considerable discussion about this term of the LOI, with some arguing that the Town should have no association with the fundraising and others arguing that being involved in the planning phase would help protect the Town's interest in how the fundraising is conducted. There was no motion or other resolution to this question.
- Part One. Section 4.
 - Lines (b) and (c). It was suggested that it should be made clear that the satisfactory completion of a boundary survey and a hazardous waste assessment would be completed by KLT
 - Line (e). It was suggested that there is a need for additional definition of "Property to be managed as Forever Wild Open Space."
 - Line (g). It was suggested that for our due diligence we should review KLT's Public Use guidelines. [These can be found at <https://www.tkl.org/guidelines-and-policies/>]
- Part Two. Section 1. COSTS. This states that the Town would be responsible for all of its own costs associated with the land transfer. It was suggested that we ask the Town attorney what the costs may be, including any costs associated with a purchase and sale agreement.

The Committee also had questions about the process of a land transfer to KLT, including the question of whether or not the Town would sign a LOI as part of the process.

At 8:56 PM a motion to adjourn was made by Lloyd, seconded by Steve. Passed unanimously.

BOARD of SELECTMEN
Organizational and Directive Document
for the
Open Space Committee

COMMITTEE ORGANIZATION

Type of Committee: The Open Space Committee is an advisory committee to the Board of Selectmen required to provide information and options regarding the tax acquired property previously owned by Robert Pettengill property located off the House Road on Wilson Pond.

Number of Members: Minimum 5 and Maximum 7.

Residency Requirement: Wayne residents only.

Qualifications of Members: Previous experience in forestry management, farming, conservation, real estate, recreation, land stewardship, and public administration

Appointment Process: Board of Selectmen will accept letters of interest from residents specifying their experience and desire to serve on the Open Space Committee. Board will advertise for interested persons, review letters of interest, and make formal appointments at a Board of Selectmen meeting when a minimum of five (5) appointments are achieved.

Committee Organizational Structure: The Committee's first meeting will elect a Chair, Vice-Chair, and Secretary. The Chair will conduct the meetings according to Robert's Rules of Order. The Vice-Chair will conduct the meetings in the absence of the Chair. The Secretary will take and prepare the minutes of the meeting.

Quorum: A five (5) member committee will have a quorum of 3 to conduct a meeting. A seven (7) member committee will have a quorum of 5 to conduct the meeting.

Meeting Agendas: The Chair will develop each meeting agenda and post a copy of the agenda on the Town Office bulletin board at least five (5) days before the meeting. The Chair will provide a copy of the agenda to the Town Manager for the Committee's file.

Meeting Minutes: The Committee shall maintain written records of meetings, including the results of all motions and votes. One copy of the minutes of each meeting shall be filed with the Town Clerk within ten (10) working days after approval by the committee.

Public Meetings: Committee shall hold meetings that are open to the public and issue notice of meetings, including items of discussion.

Meeting Location: Meetings will be held in the Wayne Elementary School/ Town Office. The Chair will schedule with the Town Manager for the use of the Wayne Elementary School Library, Gymnasium and/ or Town Office at least two (2) weeks in advance.

COMMITTEE DIRECTIVE

The Open Space Committee will conduct committee meetings and seek public input to review, research, develop conceptual plans, and estimated cost estimate for various options regarding the tax acquired property previously owned by Robert Pettengill property located off the House Road on Wilson Pond.

Consider the following options:

Sell the Property:

1. Sell the property with a warranty deed with no development restrictions (conservation easement);
2. Sell the property with development restrictions (conservation easement) on some or all of the property;
3. Sell the property to the Kennebec Land Trust for all back taxes and legal costs to date;

Keep the Property:

1. Keep the property as a Town Forest with development restrictions (conservation easement).

Other options:

Not available yet

To: Open Space Committee
From: Aaron Chrostowsky, Town Manager
Re: Letter of Intent ("LOI")
Date: June 17, 2017

Follow-up Questions/ Answers:

I.3.A. Purchase and Sales Agreement

See attached of example purchase and sale agreement which would be conditional to town meeting approval.

I.3.C. Fundraising Campaign

KLT recognizes that this project has many community benefits and conservation values. We are looking forward to partnering with Wayne residents to develop and implement a successful fundraising campaign. Both parties agree that this fundraising plan is a shared responsibility. Some of the Wayne fundraising volunteers might be members of the Open Space Committee, but the fundraising effort is not the responsibility of any Town of Wayne committee or official.

I.4.b. Boundary Survey

Kennebec Land Trust would hire and pay surveyor directly. KLT won't take property until survey of property is complete. Cost for survey unknown at this time, competitive bidding process, could be as high as \$10,000. Cost included in funds raised for stewardship fund.

1.4.c. Hazardous Waste Assessment

Internal assessment where KLT staff review state records, walk the property and ask questions of the current owner, in this case the Town of Wayne. There is no indication that a Phase I Environmental Site Assessment is needed at this time. Cost included in funds raised for stewardship fund.

1.4.g. KLT's Public Use guidelines

See attached KLT's Public Use guidelines

Trapping is not allowed due to hiker and pet safety. Also, some KLT members are ethically opposed to trapping.

ATV use is not compatible with low impact use. Property is not suitable for this type of activity.

KLT would entertain language that allows snowmobiles, KLT will consider if this property is needed to connect to the ITS system

2.1. Costs

No closing costs will be needed. KLT will provide a bro bono attorney for closing. Howard Lake will be the closing attorney. This line is meant that if we incur any costs evaluating this proposal, the Town will be responsible.

2.5. Termination

It is ok, to add by seller.

Capital Campaign

Option #1 Open Space Managed Forest (75% exempt)

Town	\$70,000
Survey	\$10,000
Stewardship (Open Space)	\$32,000
Total	\$112,000

*Allows for managed forest land.

*Town would receive around \$900/ year in property taxes from KLT

Option #2 Forever Wild (95% exempt)

Town	\$70,000
Survey	\$10,000
Stewardship (Forever Wild)	\$17,638
Total	\$97,638

*Would not allow timber harvesting on property.

*Town would receive around \$300/ year in property taxes from KLT

Proposed Next Steps:

Open Space Committee

- Public Hearing (Discussion of alternatives)
 1. Brief presentation of alternatives
 2. Public Comments on alternatives

- After Public Hearing at next meeting consider public comments and make recommendation to Selectboard.

- Attend Selectboard meeting and give recommendation based on comments received public hearing.

Selectboard

- If recommendation is to continue to work with KLT.
Selectboard authorizes signor of "Letter of Intent/ Purchase Sale Agreement" contingent upon Town Meeting approval
 1. KLT can begin fundraising campaign with pledges prior to Special Town Meeting

- Sign and post Special Town Meeting Warrant

- Public Hearing (Discussion of Special Town Meeting Warrant articles)
The purpose of this public hearing is to answer any questions about to potential voters of board decision.
 1. Brief Presentation on final recommendation
 2. Question(s) and Answer(s)

- Special Town Meeting (November 2017) – Australian Ballot

LETTER OF INTENT ("LOI")

DATE: June 20, 2017

SELLER: Town of Wayne

BUYER: Kennebec Land Trust

PART ONE

Based on the information currently known to the Buyer it is proposed as follows:

1. BASIC TRANSACTION

The Buyer shall purchase the "Pettengill Parcel" defined in a Purchase and Sale Agreement hereafter referenced.

The property herein referred to is identified as:

+/- 118 acres on the House Road, Wayne, formerly owned by Robert Howard Pettengill, currently owned by the Town of Wayne

Wayne Tax Map and Lot:003-037

2. PAYMENT

The Purchase Price shall be defined as follows: \$70,000, to be paid at closing.

3. OTHER TERMS

- A. A Definitive Purchase and Sales Agreement shall be prepared and subject to review and mutual approval by the parties and their attorneys, and entered into on or before a Closing Date, contingent upon town meeting approval.
- B. Closing Date subject to completion of Fundraising for: Purchase price (\$70,000), KLT perpetual stewardship costs (\$17,63832,000+/-), and boundary survey (cost to be determined by competitive bidding).
- C. Fundraising ~~plan~~ capital campaign to be developed and implemented by interested members of the Wayne community ~~members of the Wayne Open Space Committee~~ and KLT Staff.
- D. The Purchase and Sale Agreement shall include customary Representations and Warranties by Seller in favor of Buyer.

4. CONDITIONS TO BUYER'S OBLIGATION TO CLOSE.

The Buyer shall have the right to terminate this LOI prior to its expiration if any of the following conditions fail to occur to Buyer's satisfaction before closing.

- (a) Fundraising, as defined in Other Terms (B), must be completed to KLT's satisfaction.
- (b) Satisfactory completion of a boundary survey, costs included in funds raised as part of fundraising capital campaign for stewardship fund (See 3B)
- (c) Satisfactory completions of a hazardous waste assessment, costs included in funds raised as part of fundraising capital campaign -(See 3B)
- (d) The Seller shall permit Buyer to enter the property at anytime between the signing of this Letter of Intent and the closing.
- (e) Property to be managed as ~~Forever Wild~~-Open Space Managed Forest.
- (f) KLT to Pay annual property taxes to the Town of Wayne at the Open Space Managed Forest Rate.~~Forever Wild~~-rate.
- (g) Town of Wayne agrees that the Pettengill Parcel will be managed according to KLT's Public Use guidelines. KLT will consider if this property is needed to connect to the ITS system

PART TWO

The following paragraphs of this letter (the "Binding Provisions") are the legally binding and enforceable agreements of the Buyer and the Seller.

1. COSTS

The Seller shall be responsible for and bear all of its own costs and expenses incurred at any time in connection with pursuing or consummating the Transaction.

2. EXCLUSIVE DEALING

The Seller shall not market nor entertain offers on the property until the close of the Fundraising-Capital Campaign.

3. ENTIRE AGREEMENT

The Binding Provisions constitute the entire agreement between the parties and supersede all prior oral or written agreements, understandings, representations and warranties, and courses of conduct and dealing between the parties on the subject matter hereof. The Binding Provisions may be amended or modified only by a writing executed by all of the parties.

5. TERMINATION

This LOI will automatically terminate on December 31, 2019 unless extended by Buyer or by Seller.

If you are in agreement with the foregoing, please sign and return one copy of this letter agreement, which thereupon will constitute our agreement with respect to its subject matter.

Sincerely,

Mary Denison
President
Kennebec Land Trust

Theresa Kerchner
Executive Director
Kennebec Land Trust

Date:

Date

Gary Kenny
Chair, Selectboard
Town of Wayne

Aaron Chrostowsky
Town Manager
Town of Wayne

Date:

Date

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CONTRACT FOR SALE OF REAL ESTATE

Winthrop, Maine

September ____, 2015

Received of The Kennebec Land Trust, hereinafter called the Purchaser, the sum of One Hundred (\$100.00) DOLLARS, as earnest money and in part payment of the purchase price of the following described real estate, situated in the municipality of Winthrop, County of Kennebec, State of Maine:

Being -- Acres of back land off -----and a portion of Map ---, Lot --

Being a portion of the property owned by ---- (hereinafter called the Seller), at this address, and described at said County's Registry of Deeds Book ---, Page 1----.

The total purchase price ----- DOLLARS shall be paid as follows:

At closing in cash or by certified or bank check.

Said Deposit is received and held by Lake & Denison, LLP as the escrow agent subject to the following conditions:

1. EARNEST MONEY: Lake & Denison, LLP shall hold said earnest money and act as escrow agent until closing.

2. TITLE: A deed, showing good and merchantable title in accordance with the standards adopted by the Maine Bar Association, shall be delivered to the Purchaser and this transaction shall be closed and the Purchaser shall pay the balance due and execute all necessary papers on December 31, 2015 or before if agreed in writing by both parties. If Seller is unable to convey in accordance with the provisions of this paragraph, then the Seller shall

have a reasonable time period, not to exceed 60 days, from the time the defect is discovered, unless otherwise agreed to by both parties, to remedy the title, after which time, if such defect is not corrected so that there is a merchantable title, the Purchaser may, at its option, withdraw said earnest money and be relieved from all obligations. The Seller hereby agrees to make a good-faith effort to cure any title defect during such period.

3. DEED/REPRESENTATIONS: The property shall be conveyed by Trustee's Deed, and shall be free and clear of all encumbrances except building and zoning restrictions of record, restrictive covenants of record and usual public utilities serving the property. Seller represents that to the best of his knowledge there are no violations of any laws, ordinances or regulations with respect to the property. Seller also represents that to the best of his knowledge there are no underground storage tanks or hazardous waste or materials on the premises.

4. POSSESSION/OCCUPANCY: Possession/occupancy of premises shall be given to Purchaser immediately at closing. Said premises shall then be in the same condition as at present, excepting reasonable use and wear. Seller shall cut no timber or vegetation or excavate on the premises prior to closing.

5. RISK OF LOSS: The risk of loss or damage to said premises by fire or otherwise, until the closing, is assumed by the Seller.

6. PRORATIONS: The following items shall be prorated as of the date of closing:

Real estate taxes based on the municipality's fiscal year.

7. MISCELLANEOUS CLOSING COSTS: Legal fees incident to clearing of title shall be borne by the Seller. The parties shall split equally an appraisal fee. Deed preparation, abstract of title and opinion concerning the marketability of title, and the recording fees for the deed shall be borne by the Purchaser. Transfer tax shall be paid equally by the parties.

8. PURCHASER'S CONTINGENCIES: Purchaser's performance is contingent upon its Board's approval within 30 days of effective date and final appraisal of the premises to substantiate the purchase price.

9. BARGAIN SALE: The parties believe that this is a bargain sale to a 501(c)3 organization. Purchaser shall cooperate with Seller to document the donation aspects based on a qualified appraisal and, if desired by Seller, to recognize publicly the donation.

10. DEFAULT: If the Purchaser defaults in this transaction, this Contract shall be terminated, and the Purchaser shall forfeit said earnest money as liquidated damages. In the event of default by Seller, the earnest money shall be promptly returned to Purchaser and Purchaser shall have the right to enforce specific performance.

11. NO BROKER: The parties agree that no broker brought about this sale.

12. PRIOR STATEMENTS: This agreement completely expresses the obligations of the parties. Any verbal representations, statements and agreements are not valid unless contained herein.

14. HEIRS/ASSIGNS: This agreement shall extend to and be obligatory upon heirs, personal representatives, successors, and assigns of the respective parties.

WHEN SIGNED BY ALL PARTIES, THIS IS A BINDING CONTRACT. IF NOT FULLY UNDERSTOOD, CONSULT AN ATTORNEY. A COPY OF THE CONTRACT IS TO BE RECEIVED BY ALL PARTIES AND RECEIPT OF A COPY IS HEREBY ACKNOWLEDGED.

PURCHASER OFFERS AND AGREES TO PURCHASE THE ABOVE DESCRIBED PROPERTY AT THE PRICE AND UPON THE TERMS AND CONDITIONS SET FORTH. THIS AGREEMENT MAY BE SIGNED ON ANY NUMBER OF IDENTICAL COUNTERPARTS, SUCH AS A FAXED OR SCANNED AND EMAILED COPY, WITH

THE SAME BINDING EFFECT AS IF THE SIGNATURES WERE ON ONE INSTRUMENT.

The Kennebec Land Trust, Purchaser

By: _____

Address: PO Box 361, Winthrop, ME 04364

THE SELLER ACCEPTS THE OFFER AND AGREES TO DELIVER THE ABOVE DESCRIBED PROPERTY AT THE PRICE AND UPON THE TERMS AND CONDITIONS SET FORTH.

SIGNED this _____ day of September ____, 2015.

By: _____

Address:

Effective Date of Contract September ____, 2015

(Final Acceptance Date)

LD/pjm

File 4460



MAINE REVENUE SERVICES PROPERTY TAX DIVISION PROPERTY TAX BULLETIN NO. 21

OPEN SPACE TAX LAW

REFERENCE: 36 M.R.S. §§ 1101-1121
April 1, 2016 replaces May, 2013 revision

1. General Information

The Open Space Tax Law provides for the valuation of land which has been classified as open space land based on its current use as open space, rather than its potential fair market value for more intensive uses other than open space. To qualify for open space classification, land must be preserved or restricted in use to provide a public benefit. The purpose of this bulletin is to explain the more important features of this law. As used in this bulletin, the term “assessor” means the assessor or board of assessors of a municipality, the chief assessor of a primary assessing area and the State Tax Assessor in the case of the unorganized territory.

2. Valuation

- A. Valuation Method - The current use value of open space land is the sale price that particular open space parcel would command in the marketplace if it were required to remain in the particular category or categories of open space land for which it qualifies, adjusted by the certified ratio for the municipality where the land is located.

An assessor may value open space land based on such considerations as sales of land subject to permanent conservation restrictions, sales of land subject to enforceable deed restrictions, enhancement to unclassified appurtenant land areas under same ownership, and before and after appraisals of permanently restricted land in the region. This value may not reflect development or market value purposes other than open space use.

- B. Alternative Valuation Method - Notwithstanding any other provision of law, if an assessor is unable to determine the valuation of open space land under the conventional method above, the assessor may value that land under the following alternative method. The assessor may begin with a full value of the land, based on valuation of similar land that does not have conservation easement restrictions and is not in a current use program, then adjust the valuation by the local certified ratio. The assessor may then reduce this standard value according to the following categories.

- (1) All ordinary open space land is eligible for a reduction of 20% of the standard value.
- (2) Permanently protected open space land is eligible for the 20% reduction in paragraph 1 plus an additional 30% reduction; in other words, a total reduction of 50% of the standard value.
- (3) Forever wild open space land is eligible for the 50% reduction in paragraph 2 plus an additional 20% reduction; in other words, a total reduction of 70% of the standard value.
- (4) Public access open space land is eligible for the 20% reduction in paragraph 1 plus an additional 25% reduction; in other words, a total reduction of 45% of the standard value. If public access open space land is also permanently protected, it is eligible for the 50% reduction in paragraph 2 plus the additional 25% reduction in this paragraph, for a total reduction of 75%. If public access open space land is also qualified as forever wild open space land, it is eligible for the 70% reduction in paragraph 3 plus the additional 25% reduction in this paragraph, for a total reduction of 95%.
- (5) Managed forest open space land is eligible for the 20% reduction in paragraph 1 plus an additional 10% reduction; in other words, a total reduction of 30% of the standard value. If managed forest open space land is also permanently protected, it is eligible for the 50% reduction in paragraph 2 plus the additional 10% reduction in this paragraph, for a total reduction of 60%. If managed forest open space land is also qualified as public access open space land, it is eligible for the 45% reduction in paragraph 4 plus the additional 10% reduction in this paragraph, for a total reduction of 55%. If managed forest open space land is also qualified as permanently protected public access open space land, it is eligible for the 75% reduction in paragraph 4 plus the additional 10% reduction in this paragraph, for a total reduction of 85%. Managed forest open space land cannot also qualify for forever wild classification.

The value of forested open space land may not be reduced to less than the values certified under the Tree Growth Tax Law. Open space land valuation may not exceed just value as required under § 701-A.

3. Definition of Land Categories Eligible For Additional Percentage Reduction

- A. "Permanently protected open space" means an area of open space land that is subject to restrictions prohibiting building development under a perpetual conservation easement or as an open space preserve owned and operated by a nonprofit entity committed to conservation and will permanently preserve the property in its natural, scenic or open character.
- B. "Forever wild open space land" means an area of open space land that is permanently protected and subject to restrictions or committed to uses by a nonprofit entity committed to conservation and will ensure that in the future the natural resources on that protected property will remain

unaltered, except for: 1) fishing or hunting; 2) harvesting shellfish in the intertidal zone; 3) prevention of the spread of fires or disease; or 4) providing opportunities for low-impact outdoor recreation, nature observation and study.

- C. "Public access open space land" means an area of open space land allowing public access by reasonable means and the applicant agrees to refrain from taking action to discourage or prohibit daytime, nonmotorized and nondestructive public use. The applicant may permit, but is not obligated to permit, as a condition of qualification for public access status, hunting, snowmobiling, overnight use, or other more intensive outdoor recreational uses. The applicant may impose temporary or localized public access restrictions to protect active habitat of endangered species, prevent destruction or harm to fragile protected natural resources, or protect the recreational user from any hazardous area.
- D. "Managed forest open space land" means an area of open space land whether ordinary, permanently protected, or public access containing at least ten acres of forested land that is eligible for an additional cumulative percentage reduction in valuation because the applicant has provided proof of a forest management and harvest plan.

4. Standards for Classification

- A. Minimum size. There is no minimum acreage requirement for open space classification. However, for areas within an open space land parcel that do not qualify for certification, minimum areas and setbacks must be excluded.
- B. Maximum size. No person can have more than 15,000 acres of classified farmland and open space land statewide.
- C. Use. Open space land must be preserved or restricted in use to provide a public benefit by conserving scenic resources, enhancing public recreation opportunities, promoting game management, or preserving wildlife or wildlife habitat.
- D. Developed lands. Any building or improvement area is excluded from classification as open space land. Each excluded area must include at least the minimum lot size. For improvements within the 250 foot shoreland area (75 feet on streams), the minimum shoreland frontage required by either the applicable minimum lot standards or the zoning ordinance for the area in which the land is located must be excluded, whichever area is larger. The shoreland frontage requirement is waived if: 1) the affected frontage is part of a contiguous shore path or a beach for which there is or will be, once classified, regular and substantial use by the public; or 2) the legislative body of the municipality determines that a public benefit will be served by preventing future development near the shore or by securing access for the public on the particular shoreland area that would otherwise be excluded from classification. See 36 M.R.S. § 1109(3) and 38 M.R.S. § 435.
- E. Managed Forest Open Space Lands. A forest management and harvest plan must be prepared and

updated every ten years for each parcel of managed forest open space. The landowner must comply with the forest management and harvest plan and must submit every ten years to the assessor of the jurisdiction where the property is located a statement from a licensed professional forester that the landowner is managing the parcel according to the forest management and harvest plan. Failure to comply with the forest management and harvest plan results in the loss of the additional cumulative percentage reduction under this paragraph for ten years.

The assessor or the assessor's duly authorized representative may enter and examine the forested land and may examine any information in the forest management and harvest plan submitted by the owner. A copy of the forest management and harvest plan must be made available to the assessor to review upon request. Upon completion of a review, the forest management and harvest plan must be returned to the owner or an agent of the owner. A forest management and harvest plan provided in accordance with this section is confidential and is not a public record as defined in 1 M.R.S. § 402(3).

5. Public Benefit Factors

Factors appropriate to one application may be irrelevant in determining the public benefit of another application. A single factor, whether listed here or not, may be determinative of public benefit. Among the factors to be considered are:

- A. The importance of the land by virtue of its size or uniqueness in the vicinity of extensive development or comprising an entire landscape feature;
- B. The likelihood that development of the land would contribute to degradation of the scenic, natural, historic, or archeological character of the area;
- C. The opportunity of the general public to appreciate significant scenic values of the land;
- D. The opportunity for regular and substantial use of the land by the general public for recreational or educational use;
- E. The importance of the land in preserving a local or regional landscape or resource that attracts tourism or commerce to the area;
- F. The likelihood that the preservation of the land as undeveloped open space will provide economic benefit to the town by limiting municipal expenditures required to service development;
- G. Whether the land is included in an area designated as open space land or resource protection land on a comprehensive plan or in a zoning ordinance or on a zoning map as finally adopted;
- H. The existence of a conservation easement, other legally enforceable restriction, or ownership by a nonprofit entity committed to conservation of the property that will permanently preserve the land

in its natural, scenic, or open character;

- I. The proximity of other private or public conservation lands protected by permanent easement or ownership by governmental or nonprofit entities committed to conservation of the property;
- J. The likelihood that protection of the land will contribute to the ecological viability of a local, state, or national park, nature preserve, wildlife refuge, wilderness area or similar protected area;
- K. The existence on the land of habitat for rare, endangered, or threatened species of animals or plants, or of a high quality example of a terrestrial or aquatic community;
- L. The consistency of the proposed open space use with public programs for scenic preservation, wildlife preservation, historic preservation, game management, or recreation in the region;
- M. The identification of the land – or of outstanding natural resources on the land – by a legislatively mandated program, on the state, local, or federal level, as particular areas, parcels, land types or natural resources for protection including, but not limited to, the register of critical areas under 12 M.R.S. § 544-B; the laws governing wildlife sanctuaries and management areas under 12 M.R.S. §§ 10109(1), 12706 and 12708; the laws governing the state's rivers under 12 M.R.S. chapter 200; the natural resource protection laws under 38 M.R.S. chapter 3(1)(5-A); and the Maine Coastal Barrier Resources Systems under 38 M.R.S. chapter 21;
- N. Whether the land contains historic or archeological resources listed in the National Register of Historic Places or is determined eligible for such a listing by the Maine Historic Preservation Commission, either in its own right or as contributing to the significance of an adjacent historic or archeological resource listed, or eligible to be listed, in the National Register of Historic Places;
- O. Whether the land contains a wildlife habitat, which is subject to a written management agreement between the landowner and either the Department of Inland Fisheries and Wildlife or the Department of Agriculture, Conservation and Forestry to ensure that the habitat benefits provided by the land are not lost; or
- P. Whether the land is maintained in accordance with criteria that are adopted under local ordinance that provide for preserving the integrity of historically important structures or conserving a scenic view. 30-A M.R.S. § 5730.

6. General Provisions

- A. Filing. A landowner must file an application by April 1 of the year in which classification is first requested with the assessor of the jurisdiction where the property is located. Annual filing is not necessary, but an assessor may request a new application at any time. An application must be accompanied by a map or sketch showing the open space acres as well as the non-open space acres within the tract.

- B. Notification of Classification. The assessor must determine whether the land is subject to classification and classify the land as to type and notify the owner of the decision by June 1 of that year. If the application is denied, the assessor must state the reasons for the denial and provide the landowner an opportunity to amend the schedule to conform to the requirements of the statute.
- C. Reclassification. Landowners are required to give the assessor notice of any change in open space land use or administration. If the assessor becomes aware of a change to an open space parcel, the assessor must reclassify the parcel according to the change, whether or not the landowner has notified the assessor.
- D. Tax Rate. Classified open space land is subject to the same property tax rate applied to other property in the jurisdiction.

7. Valuation of Areas Other Than Open Space

Areas other than open space land, including unclassified land within an open space parcel, must be valued on the basis of fair market value.

8. Appeal from the Assessor

- A. Notice of Decision. The assessor must notify the landowner by June 1 that his or her application has been accepted or denied. If the application is denied, the assessor must state the reasons for the denial and provide the landowner an opportunity to amend the schedule within 60 days. If the landowner fails to respond to the assessor's request to file an application or provide other information, the owner is deemed to have waived all rights of appeal.
- B. Abatement Procedure. Assessments made under the open space program are subject to the abatement procedures provided by 36 M.R.S. § 841. The assessor, on written application by the taxpayer within 185 days from date of commitment, or on his or her own initiative within one year from date of commitment, may abate taxes on open space land as he or she thinks proper, provided the taxpayer has complied with the reporting requirements of 36 M.R.S. § 706.
- C: State Board of Property Tax Review. If an assessor denies a request for abatement from a landowner, the landowner may appeal that decision to the State Board of Property Tax Review. An appeal must be filed within 60 days from receipt of the assessor's decision or within 60 days from the date the application for abatement was deemed to have been denied.
- D. Superior Court. Any party dissatisfied with the decision of the State Board of Property Tax Review may further appeal to Superior Court in the county where the property is located. An appeal must be submitted within 30 days of the decision (or deemed denial) by the State Board of Property Tax Review.

For more information about the abatement and appeal procedures, see Bulletin No. 10.

9. Penalty; Withdrawal of Classification

A. **Change in Use.** If classified open space land no longer meets the requirement for classification, the assessor must withdraw the land from classification. Any change in use disqualifying land for classification under the open space program will incur a penalty.

B. **Exception.** When withdrawal of a classified parcel is caused by a transfer resulting from the exercise or threatened exercise of the power of eminent domain. Penalties do not apply.

Change from farmland to either open space, farmland to tree growth, open space to farmland, or open space to tree growth will not be penalized if a parcel also meets eligibility requirements of the new classification.

C. **Determination of Penalty.** The penalty for withdrawal of all or part of an open space parcel from the program is equal to the greater of:

(1) The taxes that would have been assessed on the just value of the property during the time the property was in the program (but not exceeding five years), less the taxes actually paid during that time; and:

(2) One of the following, whichever is appropriate:

- a. If the land has been classified for ten years or less, 30% of the difference between the 100% open space valuation (of the classified land on the assessment date immediately preceding withdrawal) and the 100% fair market value of the property on the date of withdrawal; or
- b. If the land has been classified for more than ten years, the following percentages shall apply to the difference between the open space valuation and the assessed fair market value:

11 years	29%
12 years	28%
13 years	27%
14 years	26%
15 years	25%
16 years	24%
17 years	23%
18 years	22%
19 years	21%
20 years or more	20%

- (3) The owner of classified land is required to report any change in classification of the property. If the owner fails to meet this obligation, the assessor will impose an additional 25% penalty on the amount calculated in this subsection.

D. Assessed Fair Market Value. Assessed fair market value at the time of withdrawal is the assessed value of comparable property in the taxing jurisdiction adjusted by the certified ratio to 100%.

IMPORTANT. In no event may the penalty be less than the minimum required by the Constitution of Maine, Article IX, Section 8: “a minimum penalty equal to the tax which would have been imposed over the 5 years preceding that change of use had that real estate been assessed at its highest and best use, less all taxes paid on that real estate over the preceding 5 years, and interest, upon such reasonable and equitable basis as the Legislature shall determine.”

NOTE: This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. If further information is needed, contact the Property Tax Division of Maine Revenue Services.

MAINE REVENUE SERVICES
PROPERTY TAX DIVISION
PO BOX 9106
AUGUSTA, MAINE 04332-9106
TEL: (207) 624-5600

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(Published under Appropriation No. 1037.1)

Maine Revised Statutes
Title 36: TAXATION
Chapter 105: CITIES AND TOWNS

§1101. PURPOSE

It is declared that it is in the public interest to encourage the preservation of farmland and open space land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the State to conserve the State's natural resources and to provide for the welfare and happiness of the inhabitants of the State, that it is in the public interest to prevent the forced conversion of farmland and open space land to more intensive uses as the result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation as such farmland and open space land, and that the necessity in the public interest of the enactment of this subchapter is a matter of legislative determination. [1975, c. 726, §2 (NEW).]

SECTION HISTORY

1975, c. 726, §2 (NEW).

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Maine Revised Statutes
Title 36: TAXATION
Chapter 105: CITIES AND TOWNS

§1102. DEFINITIONS

When used in this subchapter, unless the context otherwise indicates, the following words shall have the following meanings. [1975, c. 726, §2 (NEW).]

1. Assessor.

[1979, c. 378, §7 (RP) .]

2. Comprehensive plan. "Comprehensive plan" means zoning or a plan of development, including any amendment thereto, prepared or adopted by the planning board.

[1975, c. 726, §2 (NEW) .]

3. Cropland. "Cropland" means acreage within a farm unit of land in tillage rotation, open land formerly cropped and land in bush fruits.

[1975, c. 726, §2 (NEW) .]

4. Farmland. "Farmland" means any tract or tracts of land, including woodland and wasteland, of at least 5 contiguous acres on which farming or agricultural activities have contributed to a gross annual farming income of at least \$2,000 per year from the sales value of agricultural products as defined in Title 7, section 152, subsection 2 in one of the 2, or 3 of the 5, calendar years preceding the date of application for classification. The farming or agricultural activity and income derived from that activity may be achieved by either the owner or a lessee of the land.

A. [1987, c. 728, §1 (RP) .]

B. [1987, c. 728, §1 (RP) .]

Gross income as used in this subsection includes the value of commodities produced for consumption by the farm household. Any applicant for assessment under this subchapter bears the burden of proof as to the applicant's qualification.

[2009, c. 114, §1 (AMD) .]

4-A. Forest management and harvest plan. "Forest management and harvest plan" means a written document that outlines activities to regenerate, improve and harvest a standing crop of timber. A plan must include the location of water bodies and wildlife habitat as identified by the Department of Inland Fisheries and Wildlife. A plan may include, but is not limited to, schedules and recommendations for timber stand improvement and harvesting plans and recommendations for regeneration activities. A plan must be prepared by a licensed professional forester or a landowner and be reviewed and certified by a licensed professional forester as consistent with sound silvicultural practices.

[2011, c. 618, §5 (NEW) .]

4-B. Forested land. "Forested land" means land that is used in the growth of trees but does not include ledge, marsh, open swamp, bog, water and similar areas that are unsuitable for growing trees.

[2011, c. 618, §5 (NEW) .]

5. Farm woodland. "Farm woodland" means the combined acreage within a farm unit of forested land.

[1975, c. 726, §2 (NEW) .]

5-A. Horticultural land. "Horticultural land" means land which is engaged in the production of vegetables, tree fruits, small fruits, flowers and woody or herbaceous plants.

[1987, c. 728, §2 (NEW) .]

6. Open space land. "Open space land" means any area of land, including state wildlife and management areas, sanctuaries and preserves designated as such in Title 12, the preservation or restriction of the use of which provides a public benefit in any of the following areas:

- A. Conserving scenic resources; [1989, c. 748, §1 (AMD) .]
- B. Enhancing public recreation opportunities; [1989, c. 748, §1 (AMD) .]
- C. Promoting game management; or [1989, c. 748, §1 (AMD) .]
- D. Preserving wildlife or wildlife habitat. [1989, c. 748, §1 (AMD) .]

[1989, c. 748, §1 (AMD) .]

7. Orchard land. "Orchard land" means the combined acreage within a farm unit of land devoted to the cultivation of trees bearing edible fruit.

[1975, c. 726, §2 (NEW) .]

8. Pastureland. "Pastureland" means the combined acreage within a farm unit of land devoted to the production of forage plants used for animal production.

[1991, c. 546, §14 (AMD) .]

9. Planning board. "Planning board" means a planning board created for the purpose of planning in any municipality or the Maine Land Use Planning Commission in the unorganized territory.

[1975, c. 726, §2 (NEW); 2011, c. 682, §38 (REV) .]

10. Wildlife habitat. "Wildlife habitat" means land that is subject to a written management agreement between the landowner and either the Department of Inland Fisheries and Wildlife or the Department of Agriculture, Conservation and Forestry to ensure that the habitat benefits provided by the land are not lost. Management agreements may be revised or updated by mutual consent of both parties at any time. Management agreements must be renewed at least every 10 years. "Wildlife habitat" must also meet one of the following criteria:

- A. The land is designated by the Department of Inland Fisheries and Wildlife as supporting important wildlife habitat; [2003, c. 619, §1 (NEW) .]
- B. The land supports the life cycle of any species of wildlife as identified by the Department of Inland Fisheries and Wildlife; [2003, c. 619, §1 (NEW) .]
- C. The land is identified by the Department of Agriculture, Conservation and Forestry as supporting a natural vegetation community; or [2003, c. 619, §1 (NEW); 2011, c. 657, Pt. W, §5 (REV) .]

D. The land is designated as a resource protection area in a comprehensive plan, zoning ordinance or zoning map. [2003, c. 619, §1 (NEW).]

[2003, c. 619, §1 (NEW); 2011, c. 657, Pt. W, §5 (REV) .]

SECTION HISTORY

1975, c. 726, §2 (NEW). 1979, c. 378, §7 (AMD). 1987, c. 728, §§1,2 (AMD). 1989, c. 748, §1 (AMD). 1991, c. 546, §14 (AMD). 1999, c. 449, §1 (AMD). 1999, c. 731, §Y1 (AMD). 2003, c. 619, §1 (AMD). 2009, c. 114, §1 (AMD). 2011, c. 618, §5 (AMD). 2011, c. 657, Pt. W, §5 (REV). 2011, c. 682, §38 (REV).

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Maine Revised Statutes
Title 36: TAXATION
Chapter 105: CITIES AND TOWNS

§1103. OWNER'S APPLICATION

An owner of farmland or open space land may apply for taxation under this subchapter by filing with the assessor the schedule provided for in section 1109. The election to apply requires the written consent of all owners of an interest in that farmland or open space land. [2007, c. 438, §26 (AMD).]

SECTION HISTORY

1975, c. 726, §2 (NEW). 1977, c. 467, §2 (AMD). 1987, c. 728, §3 (AMD).
2007, c. 438, §26 (AMD).

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Maine Revised Statutes
Title 36: TAXATION
Chapter 105: CITIES AND TOWNS

§1105. VALUATION OF FARMLAND

The municipal assessor, chief assessor or State Tax Assessor for the unorganized territory shall establish the 100% valuation per acre based on the current use value of farmland used for agricultural or horticultural purposes. The values established must be guided by the Department of Agriculture, Conservation and Forestry as provided in section 1119 and adjusted by the assessor if determined necessary on the basis of such considerations as farmland rentals, farmer-to-farmer sales, soil types and quality, commodity values, topography and other relevant factors. These values may not reflect development or market value purposes other than agricultural or horticultural use. The values may not reflect value attributable to road frontage or shore frontage. [1999, c. 731, Pt. Y, §2 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

The 100% valuation per acre for farm woodland within a parcel classified as farmland under this subchapter is the 100% valuation per acre for each forest type established for each county pursuant to subchapter II-A. Areas other than woodland, agricultural land or horticultural land located within any parcel of farmland classified under this subchapter are valued on the basis of just value. [1993, c. 452, §7 (AMD).]

SECTION HISTORY

1975, c. 726, §2 (NEW). 1977, c. 467, §3 (RPR). 1987, c. 728, §4 (RPR).
1989, c. 748, §2 (AMD). 1993, c. 452, §7 (AMD). 1999, c. 731, §2
(AMD). 2011, c. 657, Pt. W, §5 (REV).

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Maine Revised Statutes
Title 36: TAXATION
Chapter 105: CITIES AND TOWNS

§1106-A. VALUATION OF OPEN SPACE LAND

1. Valuation method. For the purposes of this subchapter, the current use value of open space land is the sale price that particular open space parcel would command in the marketplace if it were required to remain in the particular category or categories of open space land for which it qualifies under section 1102, subsection 6, adjusted by the certified ratio.

[1993, c. 452, §9 (NEW) .]

2. Alternative valuation method. Notwithstanding any other provision of law, if an assessor is unable to determine the valuation of open space land under the valuation method in subsection 1, the assessor may value that land under the alternative method in this subsection. The assessor may reduce the ordinary assessed valuation of the land, without regard to conservation easement restrictions and as reduced by the certified ratio, by the cumulative percentage reduction for which the land is eligible according to the following categories.

A. All open space land is eligible for a reduction of 20%. [1993, c. 452, §9 (NEW) .]

B. Permanently protected open space land is eligible for the reduction set in paragraph A and an additional 30%. [1993, c. 452, §9 (NEW) .]

C. Forever wild open space land is eligible for the reduction set in paragraphs A and B and an additional 20%. [1993, c. 452, §9 (NEW) .]

D. Public access open space land is eligible for the applicable reduction set in paragraph A, B or C and an additional 25%. [1993, c. 452, §9 (NEW) .]

E. Managed forest open space land is eligible for the reduction set in paragraphs A, B and D and an additional 10%. [2011, c. 618, §6 (NEW) .]

Notwithstanding this section, the value of forested open space land may not be reduced to less than the value it would have under subchapter II-A, and the open space land valuation may not exceed just value as required under section 701-A.

[2011, c. 618, §6 (AMD) .]

3. Definition of land eligible for additional percentage reduction. The following categories of open space land are eligible for the additional percentage reduction set forth in subsection 2, paragraphs B, C, D and E.

A. Permanently protected open space is an area of open space land that is eligible for an additional cumulative percentage reduction in valuation because that area is subject to restrictions prohibiting building development under a perpetual conservation easement pursuant to Title 33, chapter 7, subchapter 8-A or as an open space preserve owned and operated by a nonprofit entity in accordance with section 1109, subsection 3, paragraph H. [2011, c. 618, §7 (AMD) .]

B. Forever wild open space is an area of open space land that is eligible for an additional cumulative percentage reduction in valuation because it is permanently protected and subject to restrictions or committed to uses by a nonprofit entity in accordance with section 1109, subsection 3, paragraph H that ensure that in the future the natural resources on that protected property will remain substantially unaltered, except for:

(1) Fishing or hunting;

- (2) Harvesting shellfish in the intertidal zone;
 - (3) Prevention of the spread of fires or disease; or
 - (4) Providing opportunities for low-impact outdoor recreation, nature observation and study.
- [1993, c. 452, §9 (NEW) .]

C. Public access open space is an area of open space land, whether ordinary, permanently protected or forever wild, that is eligible for an additional cumulative percentage reduction in valuation because public access is by reasonable means and the applicant agrees to refrain from taking action to discourage or prohibit daytime, nonmotorized and nondestructive public use. The applicant may permit, but is not obligated to permit as a condition of qualification for public access status, hunting, snowmobiling, overnight use or other more intensive outdoor recreational uses. The applicant, without disqualifying land from status as public access open space, may impose temporary or localized public access restrictions to:

- (1) Protect active habitat of endangered species listed under Title 12, chapter 925, subchapter 3;
- (2) Prevent destruction or harm to fragile protected natural resources under Title 38, chapter 3, subchapter 1, article 5-A; or
- (3) Protect the recreational user from any hazardous area. [2003, c. 414, Pt. B, §50 (AMD); 2003, c. 614, §9 (AFF) .]

D. Managed forest open space land is an area of open space land whether ordinary, permanently protected pursuant to paragraph A or public access pursuant to paragraph C containing at least 10 acres of forested land that is eligible for an additional cumulative percentage reduction in valuation because the applicant has provided proof of a forest management and harvest plan. A forest management and harvest plan must be prepared for each parcel of managed forest open space land and updated every 10 years. The landowner must comply with the forest management and harvest plan and must submit every 10 years to the municipal assessor for parcels in a municipality or the State Tax Assessor for parcels in the unorganized territory a statement from a licensed professional forester that the landowner is managing the parcel according to the forest management and harvest plan. Failure to comply with the forest management and harvest plan results in the loss of the additional cumulative percentage reduction under this paragraph for 10 years. The assessor or the assessor's duly authorized representative may enter and examine the forested land and may examine any information in the forest management and harvest plan submitted by the owner. A copy of the forest management and harvest plan must be made available to the assessor to review upon request. For the purposes of this paragraph, "to review" means to see or possess a copy of a forest management and harvest plan for a reasonable amount of time to verify that the forest management and harvest plan exists or to facilitate an evaluation as to whether the forest management and harvest plan is appropriate and is being followed. Upon completion of a review, the forest management and harvest plan must be returned to the owner or an agent of the owner. A forest management and harvest plan provided in accordance with this section is confidential and is not a public record as defined in Title 1, section 402, subsection 3. [2011, c. 618, §7 (NEW) .]

[2011, c. 618, §7 (AMD) .]

SECTION HISTORY

1993, c. 452, §9 (NEW). 2003, c. 414, §50 (AMD). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2011, c. 618, §§6, 7 (AMD) .

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Maine Revised Statutes
Title 36: TAXATION
Chapter 105: CITIES AND TOWNS

§1108. ASSESSMENT OF TAX

1. Organized areas. The municipal assessors shall adjust the 100% valuations per acre for farmland for their jurisdiction by whatever ratio or percentage of current just value is then being applied to other property within the municipality to obtain the assessed values. For any tax year, the classified farmland value must reflect only the current use value for farm or open space purposes and may not include any increment of value reflecting development pressure. Commencing April 1, 1978, land in the organized areas subject to taxation under this subchapter must be taxed at the property tax rate applicable to other property in the municipality, which rate must be applied to the assessed values so determined.

[1999, c. 731, Pt. Y, §3 (AMD) .]

2. Unorganized territory. The State Tax Assessor shall adjust the 100% valuations per acre for farmland for the unorganized territory by such ratio or percentage as is then being used to determine the state valuation applicable to other property in the unorganized territory to obtain the assessed values. For any tax year, the classified farmland value must reflect only the current use value for farm or open space purposes and shall not include any increment of value reflecting development pressure. Commencing April 1, 1978, land in the unorganized territory subject to taxation under this subchapter shall be taxed at the state property tax rate applicable to other property in the unorganized territory, which rate shall be applied to the assessed values so determined.

[1987, c. 728, §5 (AMD) .]

SECTION HISTORY

1975, c. 726, §2 (NEW). 1977, c. 467, §§5,6 (AMD). 1979, c. 666, §23 (AMD). 1987, c. 728, §5 (AMD). 1999, c. 731, §Y3 (AMD).

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Maine Revised Statutes
Title 36: TAXATION
Chapter 105: CITIES AND TOWNS

§1109. SCHEDULE; INVESTIGATION

1. Schedule. The owner or owners of farmland subject to taxation under this subchapter shall submit a signed schedule, on or before April 1st of the year in which the owner or owners wish to first subject the land to taxation under this subchapter, to the assessor upon a form prescribed by the State Tax Assessor identifying the land to be taxed under this subchapter, indicating the number of acres of each farmland classification, showing the location of the land in each classification and representing that the land is farmland as defined in section 1102, subsection 4. In determining whether the land is farmland, the assessor shall take into account, among other things, the acreage of the land, the portion of the land that is actually used for farming or agricultural operations, the productivity of the land, the gross income derived from farming or agricultural operations on the land, the nature and value of the equipment used in connection with farming or agricultural operations on the land and the extent to which the tracts comprising the land are contiguous. If the assessor determines that the land is farmland as defined in section 1102, subsection 4, the assessor shall classify it as farmland and apply the appropriate 100% valuations per acre for farmland and that land is subject to taxation under this subchapter.

The assessor shall record, in the municipal office of the town in which the farmland is located, the value of the farmland as established under this subchapter and the value at which the farmland would have been assessed had it not been classified under this subchapter.

[2011, c. 240, §7 (AMD) .]

2. Provisional classification. The owner of a parcel of land of at least 5 contiguous acres on which farming or agricultural activities have not produced the gross income required in section 1102, subsection 4 per year for one of the 2 or 3 of the 5 preceding calendar years, may apply for a 2-year provisional classification as farmland by submitting a signed schedule in duplicate, on or before April 1st of the year for which provisional classification is requested, identifying the land to be taxed under this subsection, listing the number of acres of each farmland classification, showing the location of the land in each classification and representing that the applicant intends to conduct farming or agricultural activities upon that parcel. Upon receipt of the schedule, the land must be provisionally classified as farmland and subjected to taxation under this subchapter. If, at the end of the 2-year period, the land does not qualify as farmland under section 1102, subsection 4, the owner shall pay a penalty that is an amount equal to the taxes that would have been assessed had the property been assessed at its fair market value on the first day of April for the 2 preceding tax years less the taxes paid on the property over the 2 preceding years and interest at the legal rate from the dates on which those amounts would have been payable.

[1999, c. 731, Pt. Y, §4 (AMD) .]

3. Open space land qualification. The owner or owners of land who believe that land is open space land as defined in section 1102, subsection 6 shall submit a signed schedule on or before April 1st of the year in which that land first becomes subject to taxation under this subchapter to the assessor on a form prescribed by the State Tax Assessor that must contain a description of the land, a general description of the use to which the land is being put and other information required by the assessor to aid the assessor in determining whether the land qualifies for classification as open space land and for which of the valuation categories set forth in section 1106-A the land is eligible. The assessor shall determine whether the land is open space land as defined in section 1102, subsection 6 and, if so, that land must be classified as open space land and subject to taxation under this subchapter. In determining whether the restriction of the use or preservation of the land provides a public benefit in one of the areas set forth in section 1102, subsection 6, the assessor shall consider

all facts and circumstances pertinent to the land and its vicinity. A factor that is pertinent to one application may be irrelevant in determining the public benefit of another application. A single factor, whether listed below or not, may be determinative of public benefit. Among the factors to be considered are:

- A. The importance of the land by virtue of its size or uniqueness in the vicinity or proximity to extensive development or comprising an entire landscape feature; [1989, c. 748, §4 (NEW).]
- B. The likelihood that development of the land would contribute to degradation of the scenic, natural, historic or archeological character of the area; [1989, c. 748, §4 (NEW).]
- C. The opportunity of the general public to appreciate significant scenic values of the land; [1989, c. 748, §4 (NEW).]
- D. The opportunity for regular and substantial use of the land by the general public for recreational or educational use; [1989, c. 748, §4 (NEW).]
- E. The importance of the land in preserving a local or regional landscape or resource that attracts tourism or commerce to the area; [1989, c. 748, §4 (NEW).]
- F. The likelihood that the preservation of the land as undeveloped open space will provide economic benefit to the town by limiting municipal expenditures required to service development; [1989, c. 748, §4 (NEW).]
- G. Whether the land is included in an area designated as open space land or resource protection land on a comprehensive plan or in a zoning ordinance or on a zoning map as finally adopted; [1989, c. 748, §4 (NEW).]
- H. The existence of a conservation easement, other legally enforceable restriction, or ownership by a nonprofit entity committed to conservation of the property that will permanently preserve the land in its natural, scenic or open character; [1989, c. 748, §4 (NEW).]
- I. The proximity of other private or public conservation lands protected by permanent easement or ownership by governmental or nonprofit entities committed to conservation of the property; [1989, c. 748, §4 (NEW).]
- J. The likelihood that protection of the land will contribute to the ecological viability of a local, state or national park, nature preserve, wildlife refuge, wilderness area or similar protected area; [1989, c. 748, §4 (NEW).]
- K. The existence on the land of habitat for rare, endangered or threatened species of animals, fish or plants, or of a high quality example of a terrestrial or aquatic community; [1989, c. 748, §4 (NEW).]
- L. The consistency of the proposed open space use with public programs for scenic preservation, wildlife preservation, historic preservation, game management or recreation in the region; [1989, c. 748, §4 (NEW).]
- M. The identification of the land or of outstanding natural resources on the land by a legislatively mandated program, on the state, local or federal level, as particular areas, parcels, land types or natural resources for protection, including, but not limited to, the register of critical areas under Title 12, section 544-B; the laws governing wildlife sanctuaries and management areas under Title 12, section 10109, subsection 1 and sections 12706 and 12708; the laws governing the State's rivers under Title 12, chapter 200; the natural resource protection laws under Title 38, chapter 3, subchapter 1, article 5-A; and the Maine Coastal Barrier Resources Systems under Title 38, chapter 21; [2007, c. 627, §29 (AMD).]
- N. Whether the land contains historic or archeological resources listed in the National Register of Historic Places or is determined eligible for such a listing by the Maine Historic Preservation Commission, either in its own right or as contributing to the significance of an adjacent historic or archeological resource listed, or eligible to be listed, in the National Register of Historic Places; or [2003, c. 619, §3 (AMD).]

O. Whether there is a written management agreement between the landowner and the Department of Inland Fisheries and Wildlife or the Department of Agriculture, Conservation and Forestry as described in section 1102, subsection 10. [2003, c. 619, §4 (NEW); 2011, c. 657, Pt. W, §5 (REV) .]

If a parcel of land for which the owner or owners are seeking classification as open space contains any principal or accessory structures or any substantial improvements that are inconsistent with the preservation of the land as open space, the owner or owners in their schedule shall exclude from their application for classification as open space a parcel of land containing those buildings or improvements at least equivalent in size to the state minimum lot size as prescribed by Title 12, section 4807-A or by the zoning ordinances or zoning map pertaining to the area in which the land is located, whichever is larger. For the purposes of this section, if any of the buildings or improvements are located within shoreland areas as defined in Title 38, chapter 3, subchapter 1, article 2-B, the excluded parcel must include the minimum shoreland frontage required by the applicable minimum lot standards under the minimum guidelines established pursuant to Title 38, chapter 3, subchapter 1, article 2-B or by the zoning ordinance for the area in which the land is located, whichever is larger. The shoreland frontage requirement is waived to the extent that the affected frontage is part of a contiguous shore path or a beach for which there is or will be, once classified, regular and substantial use by the public. The shoreland frontage requirement may be waived at the discretion of the legislative body of the municipality if it determines that a public benefit will be served by preventing future development near the shore or by securing access for the public on the particular shoreland area that would otherwise be excluded from classification.

[2011, c. 240, §8 (AMD); 2011, c. 657, Pt. W, §5 (REV) .]

4. Investigation. The assessor shall notify the landowner , on or before June 1st following receipt of a signed schedule meeting the requirements of this section , whether the application has been accepted or denied. If the application is denied, the assessor shall state the reasons for the denial and provide the landowner an opportunity to amend the schedule to conform to the requirements of this subchapter.

The assessor or the assessor's duly authorized representative may enter and examine lands subject to taxation under this subchapter and may examine any information submitted by the owner or owners.

The assessor may require the owner to respond within 60 days of the receipt of notice in writing by certified mail, return receipt requested, to written questions or interrogatories the assessor considers necessary to obtain material information about those lands. If the assessor determines that the required material information regarding those lands cannot reasonably be obtained through written questions or interrogatories, the assessor may require the owner , upon notice in writing by certified mail, return receipt requested, or by another method that provides actual notice, to appear before the assessor at a reasonable time and place designated by the assessor and answer questions or interrogatories the assessor considers necessary to obtain material information about those lands.

If the owner of a parcel of land subject to taxation under this subchapter fails to submit the schedules required by this section, fails to respond to written questions or interrogatories of the assessor as provided in this subsection or fails to appear before the assessor to respond to questions or interrogatories as provided in this subsection, that owner or owners are deemed to have waived all rights of appeal.

[2007, c. 438, §27 (AMD) .]

5. Owner obligation. It is the obligation of the owner to report to the assessor any change of use or change of classification of land subject to taxation under this subchapter by the end of the tax year in which the change occurs and to report to the assessor on or before April 1st of every 5th year the gross income realized in each of the previous 5 years from acreage classified as farmland.

If the owner fails to report to the assessor as required by this subsection, the assessor shall assess those taxes that should have been paid, shall assess the penalty provided in section 1112 and shall assess an additional penalty equal to 25% of the penalty provided in section 1112. The assessor may waive the additional penalty for cause.

[2007, c. 438, §28 (RPR) .]

6. Recertification. The assessor shall determine annually whether any classified land continues to meet the requirements of this subchapter. Each year the assessor shall recertify any classifications made under this subchapter. If any classified land no longer meets the requirements of this subchapter, the assessor shall either remove the classification or, if he deems it appropriate, allow the land to have a provisional classification as detailed in subsection 2.

[1977, c. 467, §11 (AMD) .]

7. Transition.

[2009, c. 434, §18 (RP) .]

SECTION HISTORY

1975, c. 726, §2 (NEW). 1977, c. 467, §§7-11 (AMD). 1977, c. 509, §§24-27 (AMD). 1981, c. 364, §23 (AMD). 1981, c. 698, §181 (AMD). 1987, c. 728, §§6-8 (AMD). 1989, c. 748, §§4,5 (AMD). 1993, c. 452, §§10,11 (AMD). 1995, c. 603, §1 (AMD). 1999, c. 731, §4 (AMD). 2003, c. 414, §B51 (AMD). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 619, §§2-4 (AMD). 2007, c. 438, §§27, 28 (AMD). 2007, c. 627, §29 (AMD). 2009, c. 434, §18 (AMD). 2011, c. 240, §§7, 8 (AMD). 2011, c. 657, Pt. W, §5 (REV).

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Maine Revised Statutes
Title 36: TAXATION
Chapter 105: CITIES AND TOWNS

§1110. RECLASSIFICATION

Land subject to taxes under this subchapter may be reclassified as to land classification by the municipal assessor, chief assessor or State Tax Assessor upon application of the owner with a proper showing of the reasons justifying that reclassification or upon the initiative of the respective municipal assessor, chief assessor or State Tax Assessor where the facts justify the same. In the event that the municipal assessor, chief assessor or State Tax Assessor determines, upon his own initiative, to reclassify land previously classified under this subchapter, he shall provide to the owner or owners of the land by certified mail, return receipt requested, notice of his intention to reclassify that land and the reasons therefor: [1977, c. 696, §269 (RPR) .]

SECTION HISTORY

1975, c. 726, §2 (NEW). 1977, c. 467, §12 (AMD). 1977, c. 509, §28 (AMD). 1977, c. 696, §269 (RPR).

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Maine Revised Statutes
Title 36: TAXATION
Chapter 105: CITIES AND TOWNS

§1111. SCENIC EASEMENTS AND DEVELOPMENT RIGHTS

Any municipality may, through donation or the expenditure of public funds, accept or acquire scenic easements or development rights for preserving property for the preservation of agricultural farmland or open space land. The term of such scenic easements or development rights must be for a period of at least 10 years. [1975, c. 726, §2 (NEW).]

SECTION HISTORY

1975, c. 726, §2 (NEW).

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Maine Revised Statutes
Title 36: TAXATION
Chapter 105: CITIES AND TOWNS

§1112. RECAPTURE PENALTY

Any change in use disqualifying land for classification under this subchapter shall cause a penalty to be assessed by the assessors of the municipality in which the land is located, or by the State Tax Assessor if the land is not within a municipality, in addition to the annual tax in the year of disqualification except when the change is occasioned by a transfer resulting from the exercise or the threatened exercise of the power of eminent domain. [1987, c. 728, §9 (RPR).]

For land that has been classified as farmland under this subchapter, the penalty is the recapture of the taxes that would have been paid on the land for the past 5 years if it had not been classified under this subchapter, less all taxes that were actually paid during those 5 years and interest at the rate set by the town during those 5 years on delinquent taxes. An owner of farmland that has been classified under this subchapter for 5 full years or more may pay any penalty owed under this paragraph in up to 5 equal annual installments with interest at the rate set by the town to begin 60 days after the date of assessment. Notwithstanding section 943, for an owner paying a penalty under this procedure, the period during which the tax lien mortgage, including interest and costs, must be paid to avoid foreclosure and expiration of the right of redemption is 48 months from the date of the filing of the tax lien certificate instead of 18 months. [1999, c. 731, Pt. Y, §5 (AMD).]

A penalty may not be assessed at the time of a change of use from the farmland classification of land subject to taxation under this subchapter to the open space classification of land subject to taxation under this subchapter. A penalty may not be assessed upon the withdrawal of open space land from taxation under this subchapter if the owner applies for the land to be classified as and the land is accepted for classification as timberland under subchapter 2-A. There also is no penalty imposed when land classified as timberland is accepted for classification as open space land. A penalty may not be assessed upon withdrawal of open space land from taxation under this subchapter if the owner applies for the land to be classified as and the land is accepted for classification as farmland under this subchapter. A penalty may not be assessed upon withdrawal of land enrolled under the Maine Tree Growth Tax Law if the owner applies for the land to be classified as and the land is accepted for classification as farmland under this chapter. The recapture penalty for withdrawal from farmland classification within 10 years of a transfer from either open space tax classification or timberland tax classification is the same imposed on withdrawal from the prior tax classification, open space or tree growth. The recapture penalty for withdrawal from farmland classification more than 10 years after such a transfer will be the regular farmland recapture penalty provided for in this section. In the event a penalty is later assessed under subchapter 2-A, the period of time that the land was taxed as farmland or as open space land under this subchapter must be included for purposes of establishing the amount of the penalty. The recapture penalty for withdrawal from open space classification within 10 years of a transfer from tree growth classification occurring on or after August 1, 2012 is the same that would be imposed if the land were being withdrawn from the tree growth classification. The recapture penalty for withdrawal from open space classification more than 10 years after such a transfer will be the open space recapture penalty provided for in this section. [2011, c. 618, §8 (AMD).]

If land is withdrawn from classification under this subchapter, any penalty assessed may be considered for abatement pursuant to the procedures incorporated in subchapter VIII. [1987, c. 728, §9 (RPR).]

For land classified as open space under this subchapter, the penalty is the same as that imposed for withdrawal from tree growth classification in section 581 and may be assessed and collected as a supplemental assessment in accordance with section 713-B. [1993, c. 452, §12 (AMD).]

SECTION HISTORY

1975, c. 726, §2 (NEW). 1983, c. 400, §§2,3 (AMD). 1987, c. 728, §9 (RPR). 1989, c. 555, §19 (AMD). 1989, c. 748, §6 (AMD). 1993, c. 452, §§12,13 (AMD). 1995, c. 603, §2 (AMD). 1999, c. 731, §5 (AMD). 2009, c. 434, §19 (AMD). 2011, c. 404, §2 (AMD). 2011, c. 618, §8 (AMD).

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Maine Revised Statutes
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§1112-B. MINERAL LANDS SUBJECT TO AN EXCISE TAX

Any statutory or constitutional penalty imposed as a result of withdrawal or a change of use, whether imposed before or after January 1, 1984, shall be determined without regard to the presence of minerals, provided that when payment of the penalty is made or demanded, whichever occurs first, there is in effect a state excise tax which applies or would apply to the mining of those minerals. [1987, c. 772, §19 (AMD) .]

SECTION HISTORY

1983, c. 776, §3 (NEW). 1987, c. 772, §19 (AMD) .

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§1113. ENFORCEMENT PROVISION

A lien is created to secure the payment of the penalties provided in section 1109, subsections 2 and 5 and section 1112, which may be enforced in the same manner as liens created by section 552. [2009, c. 496, §9 (AMD).]

SECTION HISTORY

1975, c. 726, §2 (NEW). 1977, c. 467, §13 (RPR). 2009, c. 496, §9 (AMD).

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§1114. APPLICATION

No person can apply for classification for more than an aggregate total of 15,000 acres under this subchapter. The classification of farmland or open space land hereunder shall continue until the municipal assessor, or State Tax Assessor in the unorganized territory, determine that the land no longer meets the requirements of such classification. [1975, c. 726, §2 (NEW).]

SECTION HISTORY

1975, c. 726, §2 (NEW).

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§1115. TRANSFER OF PORTION OF PARCEL OF LAND

Transfer of a portion of a parcel of farmland subject to taxation under this subchapter does not affect the taxation under this subchapter of the resulting parcels unless they do not meet the minimum acreage requirements of this subchapter. Transfer of a portion of a parcel of open space land subject to taxation under this subchapter does not affect the taxation under this subchapter of the resulting parcels unless either or both of the parcels no longer provide a public benefit in one of the areas enumerated in section 1102, subsection 6. Each resulting parcel must be taxed to the owners under this subchapter until it is withdrawn from taxation under this subchapter, in which case the penalties provided in section 1112 apply only to the owner of that parcel. If the transfer of a portion of a parcel of farmland subject to taxation under this subchapter results in the creation of a parcel that is less than the minimum acreage required by this subchapter or if the transfer of a portion of a parcel of open space land subject to taxation under this subchapter results in the creation of a parcel that no longer provides a public benefit in one of the areas enumerated in section 1102, subsection 6, that parcel is deemed to have been withdrawn from taxation under this subchapter as a result of the transfer and is subject to the penalties provided in section 1112. [2009, c. 496, §10 (AMD) .]

SECTION HISTORY

1975, c. 726, §2 (NEW). 1989, c. 748, §7 (AMD). 2009, c. 496, §10 (AMD) .

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§1118. APPEALS AND ABATEMENTS

The denial of an application or an assessment made under this subchapter is subject to the abatement procedures provided by section 841. Appeal from a decision rendered under section 841 or a recommended current use value established under section 1106-A must be to the State Board of Property Tax Review. [1993, c. 452, §14 (AMD).]

SECTION HISTORY

1975, c. 726, §2 (NEW). 1977, c. 549, §9 (AMD). 1977, c. 694, §699 (RPR). 1979, c. 666, §25 (RPR). 1985, c. 764, §20 (AMD). 1993, c. 452, §14 (AMD).

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§1119. VALUATION GUIDELINES

By December 31, 2000 and biennially thereafter, the Department of Agriculture, Conservation and Forestry working with the Bureau of Revenue Services, representatives of municipal assessors and farmers shall prepare guidelines to assist local assessors in the valuation of farmland. The department shall also deliver these guidelines in training sessions for local assessors throughout the State. These guidelines must include recommended values for cropland, orchard land, pastureland and horticultural land, differentiated by region where justified. Any variation in assessment of farmland from the recommended values must be substantiated by the local assessor within the parameters allowed within this subchapter. [2001, c. 652, §8 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

1987, c. 728, §10 (NEW). 1991, c. 508, §2 (AMD). 1997, c. 526, §14 (AMD). 1999, c. 731, §Y6 (AMD). 2001, c. 652, §8 (AMD). 2011, c. 657, Pt. W, §5 (REV).

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SECTION HISTORY

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§1120. PROGRAM PROMOTION

The Department of Agriculture, Conservation and Forestry shall undertake an informational program designed to educate Maine citizens as to the existence of the farm and open space tax laws, which must include, but not be limited to, informing local farm organizations and associations of tax assessors about the law. [2013, c. 405, Pt. D, §14 (AMD).]

The Department of Agriculture, Conservation and Forestry and the Bureau of Revenue Services shall produce written materials designed to inform municipal assessors, farmers and Maine citizens about the farm and open space tax program. These materials must be in a form that is attractive, easily understandable and designed to interest the public in the program. The department and the bureau shall ensure that these written materials are made available and distributed as widely as possible throughout the State. [2013, c. 405, Pt. D, §14 (AMD).]

SECTION HISTORY

1987, c. 728, §10 (NEW). 1997, c. 526, §14 (AMD). 2013, c. 405, Pt. D, §14 (AMD).

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§1121. PROGRAM MONITORING

The Department of Agriculture, Conservation and Forestry and the Bureau of Revenue Services shall periodically review the level of participation in the farm and open space tax program, the taxes saved due to that participation, the fiscal impact, if any, on municipalities, including the impact of any penalties assessed under section 1112 and the effectiveness of the program in preserving farmland and open space. The department and the bureau may report to the joint standing committee of the Legislature having jurisdiction over taxation matters on the status of the program. The department and the bureau may identify problems that prevent realization of the purposes of this subchapter and potential solutions to remedy those problems. [2001, c. 652, §9 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

1987, c. 728, §10 (NEW). 1991, c. 508, §3 (AMD). 1997, c. 526, §14 (AMD). 2001, c. 652, §9 (AMD). 2011, c. 657, Pt. W, §5 (REV).

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